

ment, or could we also pass this upon consideration of Delegate Henderson's?

DELEGATE JAMES: Mr. Chairman, I believe Delegate Clark and I would like to offer our amendment. It is a very simple amendment and it is easy to explain. I think we can take a quick vote on it.

THE CHAIRMAN: Very well. In doing this, the Chair will rule that action on this amendment, regardless of which way it goes, will not preclude consideration and action upon Amendment No. 9, or change or modify thereof.

Will the Pages please distribute Amendment "R".

This will be Amendment No. 10.

The Clerk will read the amendment.

READING CLERK: Amendment No. 10 to Committee Recommendation R&P-1 by Delegate James and James Clark:

On page 3 section 5, Rights of Accused, in line 11 strike out the word "unanimous".

THE CHAIRMAN: The amendment has been offered by Delegate James and seconded by Delegate James Clark.

The Chair recognizes Delegate James.

DELEGATE JAMES: Mr. Chairman, fellow delegates, I am not going to repeat all of the arguments that have been made in favor of the less than unanimous jury verdict in criminal cases. Suffice it to say that if this is adopted, the common law jury of twelve which would continue to exist in Maryland, the common law requirement of a unanimity of verdict would continue, unless the General Assembly provides for a verdict of less than twelve in an appropriate case.

In other words, the character of the jury trial would be a matter of legislative action. I submit that this is a very simple proposition and I urge you to vote for it.

THE CHAIRMAN: Are there any questions of the sponsor?

Delegate Henderson.

DELEGATE HENDERSON: Mr. Chairman, this is one of the things that I considered in this drafting problem, and the reason I first thought by striking out the word "unanimous", that it would leave it to the legislature to fix the number that was necessary for a verdict. However, I found from the research memorandum which was submitted to me that the

word, "jury," has been construed to mean a unanimous jury, and nothing else but a unanimous jury. That is the reason in these other states it was necessary to amend their constitutions in order to give the legislature authority to do that. Now, by merely striking out the word "unanimous" and leaving the word "jury" in there, I am afraid you would still throw the unanimity into it by use of that word.

THE CHAIRMAN: Delegate Gleason.

DELEGATE GLEASON: Mr. Chairman, I reached the same conclusion, through a different method. I wonder whether the sponsors of the amendment by striking the word "unanimous", if it is approved, are going to get the objective that they think. It will read, "public trial by an impartial jury of twelve without whose consent." Then you have to ask consent of whom, and it has to be of the jury, and if it is the consent of the jury, it would have to be the whole concept of the jury, which would be unanimous. There is nothing in here that gives the authority to the General Assembly to provide a lesser number. I do not understand the purpose of this.

THE CHAIRMAN: Delegate James.

DELEGATE JAMES: This could be a correct argument. I would think that the fact that the Convention struck out the word "unanimous" would be sufficient, but in order to obviate that, I will withdraw the amendment.

THE CHAIRMAN: The amendment is withdrawn.

Delegate Case, do you desire to offer an amendment?

Is Delegate Case in the chamber?

Delegate Lord, Delegate Carson, do you desire to offer your amendment AB?

Delegate Case.

DELEGATE CASE: Mr. Chairman, we have a point here that gives us some concern. We drafted an amendment to attempt to correct it. We talked to the Committee about it and are still talking to them. I am wondering if it would be possible to pass it at this point and come back to it.

THE CHAIRMAN: Yes.

Delegate Adkins, do you desire to offer your amendment M?

DELEGATE ADKINS: Yes, I do, Mr. Chairman.

THE CHAIRMAN: Will the pages please distribute Amendment M. This will be Amendment No. 11.